



EUROPEAN UNION

DELEGATION TO THE REPUBLIC OF TRINIDAD & TOBAGO

Elevating Human Rights to International Standards Faculty of Law, University of the West Indies, St Augustine

Overview:

Although Trinidad and Tobago has a Bill of Rights, equality legislation and social policies which have relevance to human rights, overall, the legal and social infrastructure with regard to the effective protection of human rights needs to be significantly strengthened, particularly when measured against established international human rights standards. This project will address three key areas: (1) Abolition of the Death Penalty; (2) LGBTI rights; and (3) Gender equality.

Death Penalty

Trinidad and Tobago is one of the few countries in the world that still enshrines the death penalty as a legal form of punishment. This is out of step with modern, internationally accepted human rights principles. Indeed, the country withdrew from the Optional Protocol of the American Convention on Human Rights because of its reluctance to change law and policy that still promote the death penalty. While this is the status quo, there are avenues that the project may pursue to bring Trinidad and Tobago more in line with internationally acceptable human rights norms in this area.

Gender

There has been sustained national dialogue and action on the issue of gender in the last 20 years. This has resulted in advancements in equal education and opportunity and substantial law reform which have improved the status of women in Trinidad and Tobago. Notwithstanding, troubling issues remain which demonstrate the need for active interventions to stimulate further and more meaningful progress, particularly when one appreciates that unequal gender relations revolve around inequitable power paradigms which favour men. There are, for example, alarming instances of gender based violence, issues of trafficking in women and girls and a deficit in relation to sexual reproductive rights. Abortion is still illegal and there are no specific laws against sexual harassment. Attitudes to women as authority figures in all spheres: business, institutions, government, the public sector and the home, even in a matriarchal society, reflect this unequal power structure.

LGBTI Issues

The issue of LGBTI rights is one of topical interest and must form part of any legitimate human rights agenda, given the poor human rights record in this area in Trinidad and Tobago. Sodomy is still outlawed under an archaic law of the country and constitutes a criminal offence. While the law is not enforced, opposition to its abolition remains, indicating that discrimination on the basis of sexual orientation is evident. Even where there have been developments in equality



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legislation, such as the Equality of Opportunity Act, policy makers have specifically identified sexual orientation for exclusion as a ground of discrimination, thereby underscoring inequality and prejudice in this arena. In fact, there is neither coherent policy nor route toward law reform for LGBTI rights. Discrimination against the LGBTI community includes violence, albeit not well documented, yet there are very few cases before the courts. The cases that emerge are hamstrung by constitutional limitations existing through saving law clauses which preserve the sodomy law and entrench discrimination. Advocacy is limited because of discrimination and because of fears of violence.

In addition, the link between discrimination on the ground of sexual orientation and the problem of HIV is evident, given that men who have sex with men have been identified as a particularly vulnerable grouping with respect to HIV. There are no laws on HIV and no cases evaluating violations of rights on the ground of HIV. Persons living with HIV continue to have their rights violated and there is an opaque sense of what precisely these rights are, or should be. The Equality of Opportunity in Employment Act, which precludes discrimination on a number of grounds also excludes HIV and as noted above, sexual orientation (the latter explicitly).

Objectives:

- To strengthen Trinidad and Tobago's institutional capacity for elevating the standard and execution of human rights protection to established international human rights expectations, in particular, promoting the abolition of the death penalty and enhancing respect for the rights of the LGBTI community, women and girls.
- For each of the areas, the scope of the actions will encompass public awareness, training, law reform strategy, research and documentary outputs, in addition to litigation. Ancillary objectives, in particular, the provision of shadow reports for the state and the institutional strengthening of the UWI's Law Clinic, the main protagonist for the litigation/ redress strategy, will be achieved.

Outcomes:

- Institutional capacity building of the several state institutions and departments that perform functions related to rights. Further, it will result in a more people centred Parliament.
- To achieve cross-cutting and far reaching results, by strengthening the capacity and knowledge base of CSO's, private and public sector stakeholders and by providing them with active support in their own objectives. In this way, concrete gains may be made in the promotion and advancement of human rights.
- In terms of law enforcement, both arms of the state machinery will be strengthened. The judiciary will emerge more sensitised to modern principles of human rights and aware of cutting



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edge human rights jurisprudence. The police, being at the forefront of enforcement, will be better able to appreciate the nuances of policing with a human rights face.

- Simultaneously, as a desirable by product, the action will strengthen the institutional capacity of the UWI's Law Clinic, placing it in a stronger position to be an advocate, a catalyst and an avenue for legal redress, to protect victims of violence, including human rights defenders. This can only augur well for the future promotion of human rights.
- The action can assist in making employers aware of appropriate rights principles to design workplace programs that underscore rights. The action will also deepen the engagement and participation of employers, prime actors in society, in human rights programming, persuading them to treat with rights as legitimate and indeed entrenched elements of both the employment environment and the wider society. This will considerably advance the broad goals of democratic governance.

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